

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:11-cv-13330-TLL-CEB
	)	
THE DOW CHEMICAL COMPANY,	)	
	)	
Defendant.	)	
	)	

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**UNITED STATES' NOTICE OF LODGING OF  
PROPOSED CONSENT DECREE**

The United States of America (the “United States”), by and through its undersigned attorneys, hereby lodges the attached, proposed Consent Decree with this Court and states as follows:

1. By even date herewith, the United States filed a Complaint in this action seeking civil penalties from the Defendant, The Dow Chemical Company (“Dow”), and alleging violations of various environmental requirements at Dow’s manufacturing and research facility in Midland, Michigan. Specifically, the United States alleges that Dow violated the following statutes and regulations: (1) the Clean Air Act, as amended (“CAA”), 42 U.S.C. §§ 7401 *et seq.*, including the National Emission Standards for Hazardous Air Pollutants (“NESHAP”) (40 C.F.R. Part 63, Subparts F, G, H, GGG, JJJ, MMM, and UUUU; and 40 C.F.R. Part 61, Subparts F and FF); (2) the Clean Water Act, as amended (“CWA”), 33 U.S.C. §§ 1251 *et seq.*; and (3) the Resource Conservation and Recovery Act, as amended (“RCRA”), 42 U.S.C. §§ 6901 *et seq.*

2. The proposed Consent Decree between the United States and Dow, attached hereto, would resolve the allegations in the Complaint and conclude this case (although the Court would retain jurisdiction to enforce the Decree). The proposed Consent Decree requires Dow to implement an enhanced leak detection and repair program and to pay a \$2.5 million civil penalty.

3. At this time, the proposed Consent Decree should not be signed or entered by this Court. Instead, pursuant to U.S. Department of Justice regulations codified at 28 C.F.R. § 50.7, the United States will publish notice of the lodging of the proposed Consent Decree in the Federal Register. This notice will commence a thirty-day public comment period.

4. At the conclusion of the public comment period, the United States will make an appropriate filing with the Court, including providing the Court with any written comments received during the public comment period. Because the United States may withdraw its consent to the proposed Consent Decree if public comments disclose facts or considerations which indicate that the proposed Consent Decree is improper, inappropriate, inadequate, or not in the public interest, the United States will either: (i) move this Court to enter the Decree and

explain why we believe the public comments do not provide a basis for withdrawing our consent to the proposed Consent Decree; or (ii) notify the Court of our withdrawal of the proposed Consent Decree.

5. Accordingly, the Consent Decree should not be signed and entered at this time.

Respectfully Submitted,

FOR THE UNITED STATES OF AMERICA

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United States Department of Justice

s/ Annette M. Lang  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 29<sup>th</sup> day of July 2011, I caused a true copy of the foregoing United States' Notice of Lodging of Proposed Consent Decree (together with the accompanying Consent Decree) to be served electronically (by means of an electronic email from me and not by means of this Court's electronic filing system) and by first-class mail, postage pre-paid on the following attorneys listed in Paragraph 101 of the proposed Consent Decree:

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/s Annette M. Lang